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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	No. 13-CR-126-J
v.)	
)	
STANLEY JONES,)	
)	
Defendant.)	

MOTION IN LIMINE

COMES NOW the United States of America, by and through its attorney, Kerry J. Jacobson, Assistant United States Attorney for the District of Wyoming, and files the following Motion in Limine.

On September 16, 2013, the Defendant filed his “proposed jury instructions.” Based upon a review of those instructions, it appears the Defendant may be attempting to apply state law principles to his federal case. This belief is specifically based upon Defendant’s Instructions 3, 4, 5, 6, 7, 9 and 11.

The 10th Circuit in *United States v. Shenise*, 43 F.Supp.2d 1190 (10th Cir. 1999), determined that federal law overrides conflicting state law with respect to federal public lands. Under *Shenise*, a “grazing trespass” exists when livestock are grazing on federal public lands in without a permit. Period. *Shenise*, 43 F.Supp.2d at 1199 and 1201. Therefore, whether there is a fence around the public land or not, if a livestock owner does not have the said “permit” allowing him permission to graze his animals, it simply does not matter what the fencing situation is or whose responsibility it is to build said fence. Federal law requires livestock owners to acquire a permit or else keep their animals off federal public land. Therefore, as it pertains to federal public land, livestock owners are required to keep their animals fenced in. State “fence out” laws simply have no applicability in this matter.

Therefore, the Government respectfully requests the Defendant be prohibited from presenting any evidence which involves the allegation that the federal government should have to comply with Wyoming’s fence out laws and his proposed jury instructions regarding Wyoming state law should be refused.

DATED this 16th day of September, 2013.

Respectfully submitted,

CHRISTOPHER A. CROFTS
United States Attorney
District of Wyoming

/s/ Kerry J. Jacobson

Kerry J. Jacobson
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on September 16th, 2013, I served a copy of the foregoing **TRIAL**
MEMORANDUM upon the following by hand delivery to:

Mr. Stanley Jones

/s/ Kerry J. Jacobson
KERRY J. JACOBSON
Assistant United States Attorney

